

MUNICIPAL MINUTES, CITY OF TUPELO
STATE OF MISSISSIPPI

AUGUST 19, 2014

Be it remembered that the regular meeting of the Tupelo City Council was held in the Council Chambers at City Hall Building on Tuesday, August 19, 2014, at 6:00 p.m. with the following in attendance: Council Members Markel Whittington, Lynn Bryan, Nettie Y. Davis, Buddy Palmer, Mike Bryan and Willie Jennings; City Attorney Ben Logan; and Glenda Muse, Clerk of the Council.

The invocation was led by former Councilwoman Carolyn Mauldin introduced by Councilman Buddy Palmer, followed by the Pledge of Allegiance led by two Boy Scouts from Troop #12.

IN THE MATTER OF CALLING THE MEETING TO ORDER

President Mike Bryan called the regular meeting to order at 6:00 p.m.

IN THE MATTER OF CONFIRMATION OR
AMENDMENT OF AGENDA AND AGENDA ORDER

Upon a motion by Councilman Palmer, seconded by Councilman Whittington, the council voted unanimously to confirm the agenda and agenda order, as amended:

ADD: Executive Session

4. PROCLAMATIONS, RECOGNITIONS AND REPORTS AGENDA

IN THE MATTER OF RECOGNITION OF BOY/GIRL SCOUTS

Mayor Shelton introduced two Boy Scouts who were present along with their Merit Badge Counselor Duke Loden. These scouts, McKinney Pitts and Colt Moore, are members of Troop #12 sponsored by First United Methodist Church.

IN THE MATTER OF RECOGNITION OF CITY EMPLOYEES

Mayor Shelton presented Certificates of Appreciation to the following employees for their dedicated service to the City of Tupelo:

Chad White	Tupelo Fire Department	5 years
William Graves	Tupelo Fire Department	20 years
Tim Clouse	Tupelo Police Department	15 years

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IN THE MATTER OF REPORT FROM ELVIS PRESLEY MEMORIAL FOUNDATION

Mr. Henry Dodge, Jr., President of the Elvis Presley Memorial Foundation, addressed the Mayor and City Council regarding on-going projects at the Elvis Birthplace and future plans for the popular tourist spot. Plans are to have several of these projects completed in anticipation of the celebration of Elvis' 80th birthday next year. Mayor Shelton introduced other members of the Foundation who were present.

IN THE MATTER OF MAYOR'S REPORT

Mayor Shelton presented a trophy to Debbie Brangenberg, Director of Tupelo Downtown/Main Street Association, which she had received at the Elvis International Tribute Artist Competition held in Memphis, Tennessee, recently. The Tupelo Elvis Festival, sponsored by the Downtown/Main Street Association, was voted best Elvis tribute event of 2014. Fans from all over the world had cast votes to make this selection.

Work toward a budget for the upcoming fiscal year is continuing and he thanked the City Council for their input and help in this endeavor.

A special election will be held on September 4, 2014, to fill the seat in Ward 3 vacated by the resignation of Councilman Jim Newell. Seven candidates have qualified for that race.

Mayor Shelton expressed appreciation to all who participated in Tupelo Night Out on Thursday, August 7, declaring it to be a great event.

The Wellness and Fitness Festival is coming up on August 23 at Veterans Park. This is an all-day event for all ages.

Mayor congratulated Councilman Markel Whittington on having celebrated his birthday the previous Sunday.

Recognition was given to the Tupelo Convention and Visitors Bureau, especially to Pat Raspberry, for working so hard to represent Tupelo well to the film crew who recently shot part of an upcoming movie in Downtown Tupelo.

(President Bryan then closed the regular meeting and opened the Public Agenda.)

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5. PUBLIC AGENDA

5.1 PUBLIC HEARINGS

5.1.A LOT MOWING OF PROPERTIES

No one appeared to address these properties.

**5.1.B AMENDMENT TO DEVELOPMENT CODE TO
CREATE BEL AIR OVERLAY DISTRICT**

No one appeared to address this issue.

5.2 CITIZENS' HEARINGS

The following individuals appeared before the City Council to address the issue of the amendment to the smoking ban ordinance which will be considered later on in this meeting: Andrew Birckbichler, Teri Wolfenbarger, Andrew Pride, Alison Farris and Stephanie Collier. Councilman Palmer moved to suspend the rules to allow another speaker; the motion was seconded by Councilman Jennings and unanimously carried by a vote of the Council. Dr. Robert McMillen, Associate Director of the Tobacco Control Unit, Social Science Research Center, at Mississippi State University addressed the Council in regard to the e-cigarette issue. He stated his remarks did not necessarily reflect the views of the State Board of Public Health or Mississippi State University.

(President Bryan then closed the Public Agenda and the City Council returned to regular session.)

6. ACTION AGENDA

**IN THE MATTER OF REVIEW/ADOPT ORDINANCE AMENDING CODE OF
ORDINANCES, CHAPTER 13, ARTICLE IV, SMOKING BAN ORDINANCE**

This item was tabled at the July 15, 2014, council meeting and left on the table at the August 5, 2014, council meeting. Upon a motion by Councilman Palmer, seconded by Councilman Jennings, the council voted unanimously to bring the matter off the table for consideration at this time.

Councilman Palmer moved to adopt an Ordinance Amending Code of Ordinances, Chapter 13, Article IV, Smoking Ban Ordinance, and the motion was seconded by Councilman Jennings. This amendment deals with electronic smoking

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commonly referred to as electronic cigarettes or e-cigarettes. A Citizens' Hearing had been conducted earlier in this meeting for comments from individuals on both sides of the issue. The matter has been discussed at length at several work sessions. After further discussion at this council meeting, the matter was brought to a vote as follows:

VOTING AYE: Whittington, L. Bryan, Palmer, M. Bryan, Jennings
VOTING NAY: Davis

An executed copy of the Ordinance is attached to these minutes and incorporated herein as **APPENDIX A.**

**IN THE MATTER OF REVIEW/ADOPT ORDINANCE ESTABLISHING POLICY FOR
REGULATION, LOCATION AND PERMITTING OF MUNICIPAL RIGHT-OF-WAY
USAGE BY PUBLIC UTILITIES**

This item was tabled at the August 5, 2014, council meeting and President Bryan requested that it remain on the table at this time.

**IN THE MATTER OF REVIEW/ADOPT ORDINANCE AMENDING THE
DEVELOPMENT CODE TO ESTABLISH BEL AIR CONSERVATION OVERLAY
DISTRICT**

Councilman Whittington moved that for the immediate preservation of the public peace, health and safety, specifically during this continued state of emergency as proclaimed by the Mayor and ratified by the City Council under the authority granted to local governments under Mississippi Code Section 33-15-17, that these amendments to the Code be approved and become effective immediately upon adoption and prior to being recorded and published. This Development Code amendment established a conservation overlay district for the Bel Air neighborhood. The neighborhood has voted to request this action, and the Tupelo Planning Committee has considered and approved the same at their August 4, 2014, meeting. A Public Hearing had been held earlier in this City Council meeting with no one coming forward to address the matter. Vote on the adoption of this amendment was unanimous by the City Council. An executed copy of the amended ordinance is attached to these minutes and incorporated herein as **APPENDIX B.**

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7. ROUTINE AGENDA

IN THE MATTER OF REVIEW/APPROVE MINUTES OF COUNCIL MEETING OF TUESDAY, AUGUST 5, 2014

Upon a motion by Councilman Palmer, seconded by Councilman Jennings, the council voted unanimously to approve the minutes of the regular City Council meeting of Tuesday, August 5, 2014

IN THE MATTER OF REVIEW/PAY BILLS

Upon a motion by Councilman L. Bryan and a second by Councilman Jennings, the council voted unanimously to approve payment of the following checks, bills having been reviewed at 4:30 p.m. by Council Members Whittington, L. Bryan, Palmer, and Davis:

Check Nos. 122965 through 123357 (Pool Cash Fund)
Electronic transfers as shown on the face of the docket.
Invoices as shown on the face of the docket.
Requests made by AFLAC to reimburse employees under Flex-One
Plan as shown on the face of the docket.

IN THE MATTER OF REVIEW/APPROVE FY 2014 BUDGET REVISION #7

Upon a motion by Councilwoman Davis, seconded by Councilman Palmer, the council voted unanimously to approve FY 2014 Budget Revision #7, a copy being attached to these minutes and incorporated herein as **APPENDIX C.**

IN THE MATTER OF REVIEW/APPROVE ACCEPTANCE OF JUSTICE ASSISTANCE GRANT

Terri Blissard, Grant Administrator, had advised the Mayor and City Council by memorandum dated August 14, 2014, of a 2014 Justice Assistance Grant awarded the city by the Department of Justice in the amount of \$15,481. These grant funds will be shared by the Tupelo Police Department and the Lee County Sheriff's Department to purchase equipment, including ballistic plates and carriers, computers, digital camera, and training equipment. The City of Tupelo is the designated administrator for the grant so all purchasing will be handled through the Police Department. Equipment purchased on behalf of the Sheriff's Office will be turned over to Lee County as surplus.

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Upon a motion by Councilman Palmer, seconded by Councilwoman, the council voted unanimously to accept this 2014 Justice Assistance Grant in the amount of \$15,481.

**IN THE MATTER OF REVIEW/APPROVE RESOLUTION TO SUBMIT
APPLICATION FOR CDBG GRANT TO MISSISSIPPI DEVELOPMENT AUTHORITY
ON BEHALF OF PHILIPS DAY-BRITE**

Upon a motion by Councilman Whittington and a second by Councilman Palmer, the council voted unanimously to table this matter at this time.

**IN THE MATTER OF REVIEW/ACCEPT MINUTES OF TUPELO MAJOR
THOROUGHFARE PROGRAM MEETING**

Upon a motion by Councilman Whittington, seconded by Councilman Palmer, the council voted unanimously to accept the minutes of the Tupelo Major Thoroughfare Program meeting of July 14, 2014, a copy being attached hereto as **APPENDIX D.**

**IN THE MATTER OF REVIEW/APPROVE SOLE SOURCE PROVIDER FOR
REPAIRS/MAINTENANCE, ETC. FOR AIR STRUCTURE (BUBBLE)**

Alex Farned, Director of the Tupelo Parks and Recreation Department, had submitted a request to the Mayor and City Council to declare that Arizon Structures be the sole source provider for repairs/maintenance/and the revolving door to the air structure (bubble) that is used to cover the tennis court at City Park. This company is the manufacturer of the air structure.

Councilman Whittington moved that pursuant to Miss. Code Anno. Sec. 31-7-13 (m) (viii) (1972 as amended) Arizon Structures is found to be sole source provider for the air structure (bubble) and its components used to cover the tennis courts at City Park. The motion was seconded by Councilman L. Bryan and unanimously approved by a vote of the council. A copy of a letter from Arizon Structures dated January 30, 2013, verifying this information is attached to these minutes as **APPENDIX E.**

**IN THE MATTER OF REVIEW/RATIFY CONTRACT BETWEEN THE CITY OF
TUPELO AND NEIGHBORHOOD DEVELOPMENT CORPORATION (NDC) TO
MANAGE AZALEA GARDENS APARTMENTS**

Upon a motion by Councilwoman Davis, seconded by Councilman Palmer, the council voted unanimously to table this matter at this time.

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**IN THE MATTER OF REVIEW/APPROVE REQUEST BY TUPELO POLICE
DEPARTMENT TO SURPLUS FIXED ASSET AND EXCHANGE FOR NEWER UNIT**

Chief Bart Aguirre of the Tupelo Police Department had submitted a request to the City Council to surplus fixed asset #15587, a Cellbrite Mobile data UFFED system, S/N 5615309, and exchange for a newer unit.

Councilman Whittington moved that pursuant to Miss. Code Anno. Sections 17-25-25(5)(6) and 31-7-13(m)(vi)(1972 as amended) it is in the best interest of the taxpayers of the City of Tupelo, Mississippi, to surplus inoperative fixed asset #15587, a Cellbrite Model data UFFED system, S/N 5615309, and exchange and pay the difference in price for a newer unit. The motion was seconded by Councilman L. Bryan and unanimously approved by a vote of the council.

**IN THE MATTER OF REVIEW/ACCEPT MINUTES OF TUPELO PLANNING
COMMITTEE MEETING**

Upon a motion by Councilman Palmer and a second by Councilman Whittington, the council voted unanimously to accept the minutes of the Tupelo Planning Committee meeting of August 4, 2014, a copy being attached hereto and incorporated into these minutes as **APPENDIX F.**

**IN THE MATTER OF REVIEW/APPROVE REQUEST TO DECLARE AS SURPLUS
PROPERTY LOCATED AT 320 COURT STREET**

Upon a motion by Councilman L. Bryan and a second by Councilman Whittington, the council voted unanimously to approve a Resolution Declaring Real Property as Surplus Property, said property being the former Water and Light Collections lot and building located at 320 Court Street. The City of Tupelo has determined that said property is no longer needed for governmental or related purposes, has ceased to be used in the operation of the municipality and should be declared surplus.

An executed copy of this Resolution is attached to these minutes and incorporated herein as **APPENDIX G.**

**IN THE MATTER OF REVIEW/APPROVE FAA AIP GRANT AGREEMENT FOR #28-
0070-039-2014 PROJECT**

Upon a motion by Councilman Whittington and a second by Councilman L. Bryan, the council voted unanimously to accept Federal Aviation Administration AIP

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Grant Agreement #3-28-0070-039-2014 at the request of the Tupelo Airport Authority. The Authority is also requesting \$3,691.00 from the City of Tupelo as part of the 2.5% local match of \$11,195.00. The Mississippi Department of Transportation has offered to fund a grant for the other 2.5% match required by the said grant. An executed copy of the grant agreement is attached to these minutes and incorporated herein as

APPENDIX H.

IN THE MATTER OF REVIEW/APPROVE AGREEMENT BETWEEN CITY OF TUPELO AIRPORT AUTHORITY AND MISSISSIPPI TRANSPORTATION COMMISSION TO ACCEPT SHARE OF MATCH FOR GRANT

Upon a motion by Councilwoman Davis, seconded by Councilman Palmer, the council voted unanimously to approve an Airport Development Agreement with the Mississippi Transportation Commission for Project No. AIP-3-28-0070-039-2014 (see previous minute entry) providing for \$11,195.00, which is one-half of the local share of the referenced project cost (2.5% of the total cost).

IN THE MATTER OF REVIEW/APPROVE LISTING OF LOT MOWINGS

Councilman Whittington moved to approve a listing of lot mowings submitted by the Department of Development Services as being in such a state of uncleanness as to be a menace to public health, safety and welfare of the community, thereby authorizing the department to proceed with mowing of these properties. The motion was seconded by Councilwoman Davis and unanimously passed by a vote of council members. A public hearing had been held earlier in this meeting with no one appearing to address any of the properties. A copy of same is attached to these minutes as **APPENDIX I.**

IN THE MATTER OF REVIEW/APPROVE REQUEST TO SURPLUS OLD 911 RADIO TO NEW MSWin 911 RADIO

Alex Farned, Director of the Department of Parks and Recreation, had submitted a request to surplus a Lee County 911 radio (#11550), S/N 921TDY6676, and swap for a new MSWin911 radio. Councilman Jennings moved that pursuant to Miss. Code Anno. Sections 17-25-25 (6) and 31-7-13 (m) (vi) (1972 as amended) it is found to be in the best interest of the taxpayers of the City of Tupelo, Mississippi, to surplus fixed asset #11550, S/N 921TDY6676, and exchange with Lee County 911 for a new MSWin 911 radio. The motion was seconded by Councilman Whittington and unanimously approved by a vote of the council. A fixed asset number and serial number will be assigned to the new equipment and recorded.

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IN THE MATTER OF REVIEW/APPROVE REQUEST TO SURPLUS VEHICLES FOR TUPELO PARKS AND RECREATION DEPARTMENT

Alex Farned, Director of the Parks and Recreation Department, had submitted a request to surplus two vehicles which are older with a lot of miles and need to be replaced. Councilman Palmer moved that pursuant to Miss. Code Anno. Section 17-25-25 (1972 as amended) the following vehicles should be declared as surplus:

PR12 1995 Ford F150 P/U	VIN #1FTEF15N9SLB63424
PR16 2001 Dodge Truck	VN #3B7KC26W41M283170

The motion was seconded by Councilwoman Davis and unanimously approved by a vote of the council. Each vehicle will be disposed of pursuant to Miss. Code Anno. Section 17-25-25 (1972 as amended) in the appropriate manner as determined later.

IN THE MATTER OF REVIEW/APPROVE REQUEST FOR APPROVAL FOR EAST MAIN FAMILY MEDICAL CLINIC TO ADMINISTER FLU SHOTS FOR CITY EMPLOYEES

Mayor Shelton had submitted a request to the City Council for approval for East Main Family Medical Clinic to be of service for the City of Tupelo to administer flu shots for city employees. Upon a motion by Councilman Palmer, seconded by Councilman Jennings, the council voted unanimously to allow this local clinic to perform this service for the City of Tupelo.

8. STUDY AGENDA

No items appeared on the Study Agenda for discussion.

9. EXECUTIVE SESSION

IN THE MATTER OF EXECUTIVE SESSION

Upon a motion by Councilman Whittington, seconded by Councilman Palmer, the council voted unanimously to close the regular meeting to determine the need for an executive session.

Upon a motion by Councilwoman Davis and a second by Councilman Palmer, the council voted unanimously to go into executive session to discuss the sale and purchase of real estate.

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Upon a motion by Councilwoman Davis, seconded by Councilman Jennings, the council voted unanimously to come out of executive session with no action to be taken in regular meeting.

IN THE MATTER OF ADJOURNMENT

There being no further business to come before the City Council, upon a motion by Councilman Palmer, seconded by Councilman Whittington, the council voted unanimously to adjourn the regular meeting at 7:40 p.m.

PRESIDENT

ATTEST:

CLERK OF THE COUNCIL

APPROVED:

PRESIDENT